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To: Microsoft ATR
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Subject: Comments on Microsoft Case

I've been watching the anti-trust case against Microsoft with much interest over the past three years. Like the court judgment, I agree that Microsoft is a monopoly which has abused its position in the market. Unfortunately, the current settlement proposal between the Department of Justice and Microsoft is worrisome. I recognize the fact that the task of finding a suitable penalty for Microsoft is a difficult task, but the current proposal appears too weak to bring any noticeable change in the market. If this settlement is implemented in its current form, Microsoft will only continue to get stronger. Past cases against Microsoft where it has either won (Apple v. Microsoft regarding GUI designs), come away with a light penalty (previous settlements between Microsoft and the DoJ), or even lost (Sun v. Microsoft regarding Java), it gives Microsoft a sense of invincibility that it can take whatever action it likes without fear of severe punishment.

Microsoft claims that any action against it will harm innovation in the industry, but when has Microsoft ever really been a pioneer in the computing field? It did not invent the operating system (the core of what became MS-DOS was bought), the Graphical User Interface (first developed at Xerox PARC and later popularized by the Apple Macintosh), the World Wide Web (CERN) or the web browser (the first mainstream browser was Mosaic, developed by programmers at the NCSA, and whose code was licensed to Microsoft as the foundation of Microsoft Internet Explorer), or just about any other major computer technology. Instead, Microsoft sits like the spider in the center of the web, waiting for the next major technology to appear and then moves in to dominate it using its position to its advantage and whatever means at its disposal to succeed.

The case of Microsoft bundling Internet Explorer to take the dominant position in Web browsers has been well documented in the court case, but it is not the only instance of Microsoft using the bundle tactic to gain the upper hand. About a decade ago, the office productivity software market was incredibly diverse. Today, about the only product left is Microsoft Office. Once, programs like Lotus 123 and WordPerfect were the top products, not Excel or Word. On the Macintosh, Microsoft held the high ground with Excel, but Word was rivaled by competitors such as WordPerfect, MacWrite, WriteNow, FullWrite, and others. My choice was MacWrite, having turned away from Word after getting tired of its bloated nature. Then Microsoft began Microsoft Office, where the only way to obtain a program like Excel was to buy the complete bundle. Since Office came with a word processor, Word, it became harder for businesses to justify the expense of staying with their existing word processor, spreadsheet, or presentation program when one already came with Office. The net result was Microsoft took over the market segment in the matter of a few years. Competing

products were discontinued as Microsoft drove them out of business. Now, choice is limited and Microsoft touts it's victory as standardization. But did we get the best product or merely a bloated, buggy, piece of software that cheated in the marketplace to win the top position?

The dominant position with Office also gives it an additional club to use against any competing operating system. It could be argued that the inability of operating systems such as IBM's OS/2, NeXT's NextStep, or Be's BeOS, or Linux to gain market share in the desktop operating system market was that Microsoft Office was not available. The Macintosh continues to survive in the desktop marketplace because Microsoft markets (and makes a large amount of profit from) MS Office for the Mac. The price of this support is that Microsoft's web browser, Internet Explorer, is the default browser on all new Macintosh computers. This has become the Microsoft way: use one advantage to gain another.

Sadly, whatever action is taken against Microsoft, the damage it has done to the market has already happened. Between its monopolies of the Windows operating system and the Microsoft Office productivity package, the odds of any competitor taking market share from Microsoft is very slim. But what can be done is to show Microsoft that its actions are wrong and to prevent it from using predatory tactics to gain market leadership instead of innovation like every other company in the business. This means a **STRONG** punishment that Microsoft will not forget. Judge Jackson's remedy of breaking up Microsoft was proposed for this reason. It needs a penalty that will get its attention, not one that it will ignore in a matter of months. It will not do much for the damage Microsoft has done already, but it gives a glimmer of hope to future competitors who will take on the giant. The people want choice, not Microsoft taking it away. In no other market sector do we lack choice as badly as in ones where Microsoft dominates. Something must be done, otherwise we face stagnation.

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[If you need a summary, here it is: "Back to the drawing board, DoJ."]